Compliance pluralisme and processes
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Appendix A: Laws Concerning Restaurants Involved in This Research

Several laws that apply to restaurants were studied in this research. These laws encompass several regulatory fields, including food safety, environmental concerns, business management, taxation, fire control, city management, and alcohol sales. In this appendix, and brief introduction to the relevant laws is provided, and the specific rules in these laws concerning restaurants are highlighted.

1. Food Safety Laws

Several laws about food safety are relevant. The first and most important is the Food Safety Law of the People’s Republic of China (the Food Safety Law), which was promulgated on February 28, 2009, and revised on April 24, 2015. It was enacted to ensure food safety and guarantee the safety and health of the public. All food production, processing, circulation, and catering services, as well as food additives and food-related products, including packing materials, containers, detergents, and disinfectants for food and utensils and equipment for food production and operation, are governed by this law. The law makes provisions for food-safety risk inspection and assessment, food safety standards, food production and operation, food testing, food import and export, food-safety incident resolution, and food safety inspection and management.

Rules related to restaurants address licensing, locations, equipment, disinfection, food safety personnel and internal regulations, layout and processing procedures, dishware, food materials, food additives, food storage, food workers’ health condition and personal sanitation, washing hands, clothes, water, detergent, and disinfectants. Several of these were studied in this research.

Several complementary implementation regulations and operational norms that regulate restaurants support the main Food Safety Law, including

- Implementation Regulation of Food Safety Law of People’s Republic of China (Implementation Regulation),
- Catering Service Food Safety Inspection and Management Measures (Inspection Measures) issued by the Ministry of Sanitation on March 4, 2010, and
- Operational Norms of Catering Services for Food Safety316 (Operational Norms) issued by the FDA in 2011

These regulations, measures, and operational norms further refine the general rules set out in the Food Safety Law.

For instance, while article 27 of Food Safety Law mentions that “the persons engaging in the production or business operation of food shall…[wash] their hands clean,” the Operational Norms further identify eight conditions under which a food worker should wash his or her hands. They are before processing food; after using the

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316 Refer to http://www.foodmate.net/law/shipin/173257.html
toilet; after touching raw food materials; after touching polluted tools or equipment; after coughing, sneezing, or blowing one’s nose; after dealing with animals or garbage; after touching the ears, nose, hair, face, mouth, or other parts of the body; and after any activities that may pollute the hands. Similarly, while article 27 of the Food Safety Law mentions that “persons engaging in the production or business operation of food shall keep personal hygiene,” the Operational Norms further detail several substantial aspects of personal hygiene. As article 12 of Operational Norms state, people who work with food “shall keep personal hygiene [and] wear clean working clothes and hats during the processing of food, [and] hair should not be outside of the hat, [and the person] should not have long nails, paint nails, [or] wear accessories.”

In this research, six specific requirements from Food Safety Law and its complementary regulations, measures and operational norms were studied. The first was licensing, specifically the catering services license. According to Article 29 of the Food Safety Law, “the state shall adopt a licensing system for the food production and business operation. Those intending to engage in food production, food circulation or catering services shall obtain a license for food production, food circulation or catering services.” The second was the regulations related to health certificates. According to article 34 of the Food Safety Law,

Food producers and traders shall establish and implement an employee health management system. Anyone who suffers from an infectious disease of digestive tract, such as dysentery, typhoid, or virus hepatitis, active tuberculosis, and purulent or weeping skin diseases that adversely affect food safety must not engage in work in direct contact with food for consumption. The personnel involved in food production and trading shall take a medical check-up each year, and can work only after they have obtained a health certificate.

The third was regulations related to raw meat, specifically pork and chicken. According to article 28 of the Food Safety Law,

it is forbidden to produce or engage in business operation of the following food…meat that has not been quarantined by the animal health inspection institution or has failed the quarantine or meat products that have not been inspected or have failed the inspection.

The fourth was dishware disinfection. Subarticle 5 of article 27 of the Food Safety Law reads, “[E]nsuring that the cutlery, drinking sets and containers for ready-to-eat food are washed clean and disinfected prior to use.”

The fifth was washing hands, as set out in subarticle 8 of article 27 of the Food Safety Law, which states, “[E]nsuring that the persons engaging the production or business operation of food shall keep personal hygiene, washing their hands clean…” The Operational Norms further identify eight conditions under which a food worker should wash his or her hands, as mentioned previously in this section. The sixth was cutting nails. Article 12 of Operational Norms highlights “should not have long nails” as one aspect of maintaining “personal hygiene,” which is required under article 27 of the Food Safety Law.

2. Environmental Laws
Restaurants are considered polluters of the environment, as they release cooking fumes and oily wastewater, and they contribute to noise pollution, so they should abide by environmental laws. Several environmental laws are relevant, including

- Air Pollution Prevention Law of the People’s Republic of China\(^\text{317}\) (Air Pollution Law)
- Water Pollution Prevention Law of the People’s Republic of China\(^\text{318}\) (Water Pollution Law)
- Regulation for Administration of Pollutant Discharge License,\(^\text{319}\) issued by the Ministry of Environmental Protection of the People’s Republic of China
- Provincial Regulation for Environmental Protection in XX Province
- Provincial Regulation for Administration of Pollutant Discharge License in XX Province
- Local Regulation for Administration of Drainage in XX City

This research studied the environmental and drainage licenses required in terms of these laws. According to Article 20 of the Water Pollution Law,

> [T]he nation [is to] implement [a] discharge licensing system. Companies and entities that directly or indirectly discharge industrial wastewater and medical wastewater and other companies and entities that should get discharge license before discharging wastewater and polluted water according to regulation, shall get discharge license… Companies and entities [are prohibited from discharging the] above-mentioned wastewater and polluted water without a discharge license or to violate the regulation of discharge license.

According to Article 19 of the Air Pollution Law, “companies and entities that discharge industrial exhaust gas or other poisonous air pollutants listed in article 78…and other implement discharge licensing management units, shall get discharge license.” Article 81 of the Air Pollution Law specifically notes that

> catering service entities giving out oil smoke shall install oil smoke purify equipment and use it normally, or take other purification measure to make sure the oil smoke reach the discharge standard, and prevent from pollution to residents’ living environment in vicinity.

Other provincial and local city environmental protection and licensing regulations detail further the license administration. To maintain confidentiality, they are not provided here.

### 3. Business Registration and Taxation

As business organizations, restaurants must abide by the Regulation for Individual Business,\(^\text{320}\) issued by the executive meeting of the State Council, and

\(^{317}\) [http://www.envir.gov.cn/law/air.htm](http://www.envir.gov.cn/law/air.htm)


\(^{319}\) [http://www.mep.gov.cn/hdjl/yjzj/zjyj/201411/t20141127_292080.shtml](http://www.mep.gov.cn/hdjl/yjzj/zjyj/201411/t20141127_292080.shtml). This regulation is an exposure draft. There is no officially issued national regulation on pollutant discharge. However, many provinces, such as Yunnan, Guangdong, Jiangsu, and Zhejiang, have created their own provincial regulations.

\(^{320}\) This regulation was issued by the 149th executive meeting of the State Council on March 30, 2011, and executed on November 1, 2011.
Measures of Administration of Individual Business Registration\textsuperscript{321} (Business Registration Measures), issued by the State Administration for Industry and Commerce of the People’s Republic of China. Restaurants should obtain business licenses according to these regulation and measures. Article 2 of Regulation for Individual Business points out that “citizens that register in industry and commerce administration bureaus and operation industry and commerce operation are individual business entities.” Article 2 of Business Registration Measures states, “citizens shall register in industry and commerce administration bureaus, and get individual business license before operating business.” If a restaurant’s ownership changes, the former owner should cancel the old business license and the new owner should apply for a new business license, according to article 10 of Regulation for Individual Business:

If items of the individual business registration change, individual shall apply to change registration. If the individual business changes owner, it shall apply new registration after cancelling the old registration. If individual business that is operated by a family changes the owner within the family, it shall apply to change registration according to the article.

After obtaining a business license, a restaurant should apply for a tax registration license. Taxation is governed by

- The Law of The People’s Republic of China Concerning the Administration of Tax Collection\textsuperscript{322} (Tax Law)
- Regulation for Implementation of The Law of The People’s Republic of China Concerning the Administration of Tax Collection\textsuperscript{323} (Regulation of Implementation of Tax Law)
- Administration Measures of Taxation Registration,\textsuperscript{324} issued by the State Administration of Taxation

According to article 15 of the Tax Law,

Enterprises, branches in other jurisdictions established by the enterprises, sites engaged in production or business operations, individual households engaged in industry and commerce as well as institutions engaged in production or business operations (hereinafter collectively referred to as “taxpayers engaged in production or business operations”) shall, within 30 days after the receipt of a business license, report to and complete tax registration formalities with the tax authorities on presentation of the relevant supporting documents. Upon examination and verification of the supporting documents, the tax authorities shall issue tax registration certificates.

\textsuperscript{321} http://www.gov.cn/flfg/2011-04/28/content_1854129.htm
\textsuperscript{324} This regulation was first issued on September 7, 2002, and revised in 2012 and 2013. http://www.gov.cn/gongbao/content/2014/content_2695454.htm
http://www.gov.cn/zwgk/2012-11/16/content_2268184.htm
http://www.gov.cn/flfg/2013-07/26/content_2477674.htm
http://www.gov.cn/gongbao/content/2004/content_62924.htm
However, on September 1, 2016, four state departments—the State Administration for Industry and Commerce (SAIC), State Administration of Taxation (SAT), National Development and Reform Commission (NDR), and State Council Legislative Affairs Office (SCLAO)—announced together that China will integrate business licenses and tax registration certificates into one license. Four trial districts, Heilongjiang, Shanghai, Fujian, and Hubei, implemented the system on October 1, 2016, while another 27 provinces, autonomous regions, and municipalities directly governed by the Central Government, and five selected cities implemented it on December 1, 2016. Consequently, since the end of 2016, restaurants need one license for both business registration and tax registration.

In terms of the formal Fapiao receipts used to collect tax, Article 20 of Fapiao Receipt Management Rule of the People’s Republic of China\(^\text{325}\) states “a company or individual who sells products, provide services, and other business activities should issue invoice to the customers.” Therefore, restaurants pay tax based on the value of the Fapiao receipts they buy from the taxation bureau.

4. Fire Control

As a public gathering place, a restaurant needs a fire license, according to article 15 of the Fire Control Law\(^\text{326}\) issued in 2008, which states public gathering places should apply for fire control safety assessment before use and opening. Provisions on Administration of Fire Safety in Public Entertainment Location\(^\text{327}\) (Provision of Fire Safety), issued by the Ministry of Public Security, states in article 10, “safety exits …shall install light escape direction signs that meet the standards”. Furthermore, article 11 of Provision of Fire Safety requires that “public entertainment locations, including restaurants, shall install fire accident emergency lights.”

5. City Management

Restaurants are also subject to the Urban Management Law Enforcement Bureau that regulates any attachment outside the building such as awnings and light boxes. Relevant laws include Regulation for City Road\(^\text{328}\) and Law of the People’s Republic of China on Administrative Penalty.\(^\text{329}\)

6. Liquor Licenses

Restaurants that sell alcohol must apply for liquor licenses, according to Regulation Rule of Alcohol Circulation\(^\text{330}\) that was issued by the Ministry of Commerce in 2005. Article 6 of the regulation requires that “an organization or individual who sells alcohol, including wholesale and retail, should register in commerce administration departments on the same level as the industry and

\(^{325}\) http://www.chinaacc.com/new/63/67/81/2005/12/dr65075413310321500219845-0.htm

\(^{326}\) http://www.gov.cn/lflg/2008-10/29/content_1134208.htm

\(^{327}\) http://119.china.com.cn/qwxx/txt/2010-09-22/content_3737835.htm

\(^{328}\) http://www.gov.cn/gongbao/content/2011/content_1860785.htm

\(^{329}\) http://www.gov.cn/banshi/2005-08/21/content_25101.htm

\(^{330}\) http://www.mofcom.gov.cn/aarticle/b/d/200511/20051100748397.html
commerce administration bureaus where they registered, within 60 days after getting business licenses.”
Appendix B: Supplemental Cases

In addition to the two restaurants studied in depth, four restaurants were studied in less depth—Liguan, Weiguan, Haguan, and Shangguan. The four restaurants differed in terms of scale, location, and clientele. Liguan, similar to Naguan, was located in a residential area and near a fresh food market. It could serve 50 customers, and each customer spent around 30 RMB. Weiguan was located in a village-in-the-city and had only four tables, serving a maximum of 30 customers. Most customers were local residents, and the average cost of a meal was 20 to 30 RMB. Haguan was located near universities, TV stations, hospitals, and residential areas, and most of its customers lived or worked nearby. At approximately 400 square meters, it could serve 200 customers. The average cost for each customer was about 30 RMB. Shangguan restaurant was located in a central business area, and it could seat 300 customers. Its upmarket clientele spent approximately 100 RMB each. The data collected at Shangguan derived mainly from workers, and it was used for variable analysis at individual level. Because of a lack of information about its compliance as an entity and interaction with regulators, it is not discussed in this section. Instead, Liguan, Weiguan, and Haguan are introduced.

Liguan

Liguan had more difficulty than Mingguan and Naguan to obtain its environmental license. The owner, Miao, had successively established two Liguan restaurants, which shared the same characteristics in terms of location, scale, and customers. 331 The first Liguan was the first restaurant Miao had opened, and everything was new to her. When she applied for the environmental license, the inspectors announced that they could not issue the license because the restaurant was 25 meters from a river, and the regulations stated that it could be no closer than 30 meters. However, Miao noticed that a nearby restaurant was located only 20 meters from the same river. When she asked the inspectors why that restaurant could operate so close to the river, the inspectors answered they (personally) had not approved that license.

Subsequently, Miao obtained an environmental license by asking an acquaintance in the Sanitation Bureau for help. Through an acquaintance of this acquaintance, who worked in the Environmental Bureau, she obtained a license. In this case, Liguan had an environmental license, which one could claim showed compliance, but when tracing back the process of obtaining the license, it becomes clear that the restaurant engaged in fraudulent compliance. It did not satisfy the licensing conditions but obtained the license to show it was in compliance.

Furthermore, the environmental license at the new Liguan revealed another compliance issue. When Miao opened the new Liguan, she did so in another district,

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331 Miao from Liguan had opened two restaurants. The first was successful and profitable, but she had to close it after the area underwent reconstruction. She chose another site for her new restaurant in another district. In this study, Liguan refers to both restaurants.
which belonged to a different enforcement bureau. However, it was a restaurant before, and the former restaurant had the required opening licenses. With the lease, Miao received the old environmental license. According to the law, she should have applied for a new license, as ownership had changed, similar to the case of Ming at Naguan. Nevertheless, in light of her experiences at the first restaurant, she did not apply for a new license but invited some inspectors for dinner via an acquaintance. She said the enforcement in that district was not strict. The outcome was that she was accepted as being in compliance and experienced no trouble related to that license. This was fake compliance, as shown when examining the process. The environmental license Miao held for the second restaurant was not a genuine license issued to Liguan.

Moreover, Miao engaged in full compliance at the first restaurant and fake compliance at the second when applying for the fire license. At the first Liguan, she was asked to buy five fire extinguishers, which she did. Unlike at Naguan, the inspectors in this district came to verify in person that she had carried out their instructions. In her view, one fire extinguisher was too many if no fires broke out, but once a fire broke out, any number of fire extinguishers would not be enough. At the second Liguan, she did not apply for a fire license and did not buy any fire extinguishers but invited the inspectors to a meal, as she did when applying for her environmental license. Although faced with the same legal requirements, Miao engaged in completely different compliance behaviors. When she opened her first restaurant, she fully complied with fire license requirements and bought the required number of fire extinguishers, but when she opened the second one, she had learned to play games with legal requirements. If no inspectors questioned Liguan’s license, it did not need to apply for a new one.

For the dish disinfection log, when inspectors told Miao to keep a log showing how many bowls and chopsticks had been disinfected each day, she complied for a month. However, when she realized the inspectors did not check the log, she stopped, and compliance became noncompliance.

These compliance behaviors described at Liguan show a learning process. In the process of responding to legal requirements, Miao learned the practical rules from her experience of dealing with inspectors. The practical rules she learned guided her responses in return. For example, despite following inspectors’ directions to complete a disinfection log, after she learned that inspectors would not check it, she soon stopped complying with this requirement. As a result, compliance behavior turned into noncompliance behavior. When she learned inspectors would check the fire extinguishers before issuing a fire license, she bought the required number of fire extinguishers, but when she found out that inspectors in another district were not strict on this, she did not buy any fire extinguishers and engaged in dishonesty to escape the regulatory encounter. Previous compliance behaviors changed to fake compliance behaviors. Additionally, she learned the practical rules from another restaurant’s experience. Although she was told that opening a restaurant within 30 meters of the riverside was prohibited, she saw that another restaurant was located within this distance. This showed that the practical rule differed from what she was told. As
result, she found a corrupt way to obtain the license, and compliance became fraudulent compliance.

This learning process also embodies a process of contesting, where Miao’s beliefs contest with the legal requirements. For most legal requirements, Miao did not pay much attention to the legal requirements per se, and her belief was not having belief in those legal requirements. Her ideology did not align with the aims of the legal requirements, such as food safety and concern for the environment. In other words, her belief is amoral and pragmatically oriented. She claimed, “I am just an ordinary person and have not studied in school. I do not know about the law things and do not know whether it is rational or not. I just do what they asked.” Thus, her belief is, “I do not know what I should or should not do; I just do what the inspectors asked.” However, during the process in which she found out what the genuine regulations were that she should follow in practice, she learned to circumvent legal requirements that were not strictly enforced. In this way, her beliefs competed with the law in clarifying what needed to be done and what did not need to be done.

From the perspective of motivational posture, Liguan showed manly capitulation and game playing. It accepted the regulatory authority as legitimate, and it would have liked to do what it was asked, but in the process of learning practical rules, it tried to falsify those requirements and escape whatever it could manage to escape. In terms of management style, Liguan showed characteristics of laggards and reluctant compliers. As a laggard, it actively escaped legal requirements whenever it saw the opportunity to do so. As a reluctant complier, it also showed the willingness to comply with the legal requirements set out by inspectors, but only aimed to meet the minimum standards.

**Weiguan**

Weiguan was located in a “village in a town” in a suburban area. It did not have any opening licenses and seemed to engage in noncompliance behaviors. However, when asked about the process of how the noncompliance behaviors took place, the owner explained that the restaurant actually complied with the norms the local enforcement department required. Inspectors from the local enforcement department, ICB, came to check Weiguan when it first opened. They asked Weiguan to pay 2,000 RMB and said after that it did not need to apply for all the licenses. According to the owner, the inspectors said that if restaurant owners wanted to apply for opening licenses, they simply applied. If they did not want to apply for opening licenses, they simply needed to pay the 2,000 RMB fee. The owner thought,

They are the same person that I need to resort for if I want to apply opening licenses. They will not give opening licenses to me if I apply. Since they said I can run the restaurant by paying some fee and without opening licenses, I just pay some money and do not need to apply for those licenses. Restaurants in the whole street do not have opening licenses…

Later, the boss bargained with the inspectors and finally handed over 1,500 RMB. Subsequently, the restaurant was considered legitimate.
According to the owner, inspectors said it was acceptable to open restaurants there, but it was impossible to obtain opening licenses. When asked why, the owner stated that the inspectors did not explain why. When one considers the letter and the spirit of the laws that regulate restaurant behaviors, it is clear that Weiguan did not comply with either. However, when considered from the oral requirements of the regulatory department, it could be argued that Weiguan complied with the law by negotiating with inspectors. The regulatory department clearly knew it was impossible for restaurants to obtain opening licenses in that street for various reasons, yet it wanted to allow restaurants to operate there. Therefore, it created its own practical rule for these restaurants, that is, to register with a fee. After paying the fee, Weiguan was considered legitimate and in compliance. Although it did not comply with the general laws that apply to ordinary restaurants, it complied with the specific practical rule made by this specific regulatory department. This kind of compliance can be seen as a form of creative compliance.

In addition, this creative compliance behavior at Weiguan involved the learning and contesting processes. The owner of Weiguan actually knew about opening licenses because one of his friends had a restaurant in the city and had those opening licenses. Nevertheless, he also learned that restaurants in the same street did not have opening licenses but paid the regulatory department. Consequently, when the inspectors told him he could apply for licenses or pay the fee, he quickly decided to pay the fee. He learned to follow the practical rule that applied specifically in that area and not to attempt to follow the general laws for restaurants. Furthermore, he learned from other people’s experience to bargain with the inspector and finally discounted the fee by 500 RMB.

The contesting process shares some similarities with that of Liguan, specifically the belief that “I do not know about the law; I just did what they asked.” This argument justifies its response to the specific practical rule but not the general law for restaurants. What is different is that the owner Weiguan restaurant believed that restaurants should have fire extinguishers. As a result, Weiguan bought two fire extinguishers although it was not required to do so. Considering this behavior falls outside the requirements of the specific practical rule in that area, it can be viewed as beyond-compliance behavior.

While Naguan showed that the attitude of the regulated toward the regulatory authority and the law could differ, Weiguan showed that the legal requirements might differ when dealing with a specific regulatory authority. From friends, Weiguan knew the general legal requirements for restaurants, that is, to obtain various opening license; however, from the specific regulatory authority, it learned that it needed to follow another kind of specific practical rule but not the general legal requirements. In terms of motivational posture toward the regulatory authority, it clearly showed capitulation. It was inclined to follow inspectors’ directions, although they differed from what was known from friends. Again, the motivational posture of capitulation does not forecast positive compliance behaviors toward general laws for restaurants, but a kind of creative compliance behavior. This can be seen as an extreme case
where the practical rule enforced by the regulatory authority differs completely from the general laws it should enforce.

In addition to capitulation, Weiguan showed the motivational posture of game playing, as can be seen by negotiating the fee. What the regulatory authority required was not respected as defining the limits of acceptable activity but was viewed as something that could be molded to suit the restaurant’s purposes. Although it was inclined to cooperate with the regulatory authority and followed its directions, at the same time, it tried to manipulate the specific practical rule to minimize its cost of compliance. The two kinds of motivational postures were taken and changed in the compliance process of learning the specific practical rule.

In terms of management style, Weiguan restaurant was a laggard regarding most general laws for restaurants, a reluctant complier regarding the specific practical rules enforced by the specific regulatory authority, and a strategist regarding the fire-fighting law. The three kinds of management styles were adopted and altered during the contesting process. When it showed a motivation of capitulation toward the specific regulatory authority and did not share the same beliefs as the general laws for restaurants imply, it became a laggard. When it learned the specific practical rule, showed capitulation toward the authority and game playing toward the specific practical rule, it became a reluctant complier. When it shared the beliefs implied in the fire-fighting law and bought fire extinguishers without enforcement, it became a strategist.

Haguan

Previously, Haguan used prepacked tableware, as was the case at Naguan. However, it stopped after a nearby TV station filmed a TV program in the restaurant. Customers were interviewed about their opinions of the prepacked tableware, and they complained that the restaurant, not customers, should bear the costs of washing the dishes. Subsequently, the owner stopped using prepacked tableware because of the TV program, the complaints, and the questionable cleanliness of the prepacked tableware.

Haguan restaurant tried to make its dishware acceptable for customers, and one of its internal standards was dryness. It did not use a high-quality disinfection cabinet like the one at Mingguan but partially dried the dishware with a cloth after washing it. The cloths were not disinfected every time before drying dishes. However, the owner Haguan believed that wet dishes equated to dished that had not been disinfected. The owner state, “Sometimes I eat outside [at another restaurant]. I will not use dishware that is wet. Why? If the dishware has been disinfected, [where does] the water come [from]?” As a result, she required servers to wipe the dishware after washing, even though items were not disinfected every time. According to the dishwasher, the dishware was disinfected with disinfection fluid at random interval. Nevertheless, disinfection was rare, as the researcher did not see this practiced once during the two-week observation period. Therefore, Haguan restaurant only partly complied with the disinfection legal requirements.
Handwashing was not regulated by internal rules at Haguan. According to the researcher’s observations, servers would not wash their hands unless they were too oily, and every server had her own handwashing habits. When asked about handwashing, the manager and chef stated,

It is enough that workers wash their hands before starting doing their work [this means once in the morning and once in the afternoon when workers come to work]. It is impossible to wash hands every time you touch or scratch your body in the middle of doing kitchen work…Such small detail will not have any big influence. …In our village, people cook even without wash the vegetable, not mention about washing hands. The hands of the cook look almost black, but the cook grab some vegetable and throw into the pan to fry. However, people in our village are healthier than people in the city. The most important is the big issues such as chemicals. Consequently, Haguan did not comply with handwashing requirements.

Examining compliance behavior at Haguan showed that learning and contesting processes occurred. Haguan learned that prepacked dishware was unacceptable to its customers and consequently stopped using prepacked dishware, despite its benefits of convenience and profitability. It disinfected dishware occasionally with disinfectant, which led to partial compliance. From experience, it learned that one standard for identifying disinfected dishware is dryness. As a result, to meet that standard, it ensured that dishes were wiped after washing, as it did not disinfect its dishware with a heated disinfection cabinet. However, these actions did not truly comply with disinfection legal norm. Moreover, contesting was present in the process, as the manager’s argument about handwashing shows.

Due to a lack of data about the interaction between Haguan and the regulatory authority, the restaurant’s motivational posture is unclear. In terms of management style, it shows characteristics of both laggard and strategist. As laggard, it had a negative attitude toward the legal requirement of handwashing and engaged in noncompliance behavior. As a strategist, it voluntarily abandoned the use of prepacked dishware to retain its customers and realize economic benefit, although the prepacked dishware was acceptable for meeting legal requirements. The restaurant learned from customers’ responses that while using prepacked dishware was convenient, it might lose customers by doing so, which would influence its business. For the sake of the business, it preferred to give up the prepacked dishware despite not being required to do so by law. Nevertheless, abandoning the prepacked dishware did not mean it was concerned about the disinfection promoted by the legal requirement. As its disinfection practices showed, it paid scant attention to disinfection. In addition, the restaurant’s belief about wet dishes indicating its ignorance regarding disinfection. As to handwashing, it strongly believed that this requirement was not necessary. This belief competed with the legal requirement and result in noncompliance with the requirement.
Table A.1: Compliance Behaviors, Motivational Postures, and Management Styles in the Three Restaurants

<table>
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<th>Types of Compliance</th>
<th>Motivational Posture</th>
<th>Management Style</th>
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<td>Liguan</td>
<td>Obtained environmental license at first restaurant but did not satisfy requirements</td>
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<td>Game playing</td>
<td>Laggard Reluctant complier</td>
</tr>
<tr>
<td></td>
<td>Invited inspectors for dinner and did not apply for new license at second restaurant</td>
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<tr>
<td></td>
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<td>Noncompliance</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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<td>Full</td>
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<tr>
<td>Weiguan</td>
<td>Did not apply for opening license but paid fee to regulatory authority; negotiated 500 RMB discount</td>
<td>Creative</td>
<td>Capitulation, Game playing</td>
<td>Laggard, Reluctant complier</td>
</tr>
<tr>
<td></td>
<td>Bought fire extinguishers despite no instruction from regulatory authority to do so</td>
<td>Beyond</td>
<td></td>
<td>Strategist</td>
</tr>
<tr>
<td>Haguan</td>
<td>Give up packed dishware, disinfect dishware with disinfectant occasionally</td>
<td>Partial</td>
<td></td>
<td>Strategist</td>
</tr>
<tr>
<td></td>
<td>Did not have handwashing rules and workers did not always wash their hands</td>
<td>Noncompliance</td>
<td></td>
<td>Laggard</td>
</tr>
</tbody>
</table>
Summary

Compliance Pluralism and Processes:
Understanding Compliance Behavior in Restaurants in China

Yunmei Wu

China faces major challenges in ensuring that its citizens and companies comply with its laws, despite its great efforts and achievements establishing an entirely new legal system in the last 30 years. This calls for high-quality empirical work to understand the problems of compliance in China to identify solutions to these challenges. In addition, studying compliance in the Chinese context provides a tremendous opportunity to add a non-Western case to the predominantly Western compliance literature. The present research aimed to address China’s compliance challenges and seize the opportunity for further theoretical development. Thus, its first aim was to provide an in-depth study of compliance in China by drawing on the existing body of compliance research. Its second aim was to contribute to compliance theory by offering a unique empirical study conducted in China’s unique context, with a novel ethnographic study approach that facilitates the understanding of the dynamic processes of compliance in a small business organization involving many different legal rules and changes throughout the business cycle. This new research approach was developed to overcome the limitations of existing methods, especially in the Chinese context. Nevertheless, it has several implications beyond China.

The research approach allows both an endogenous understanding of what compliance means for the key actors involved and an exogenous exploration of the factors that influence compliance behavior, as well as a processual dynamic understanding of how compliance emerges, changes, and varies, and ultimately what explains the changes and variations. Instead of looking for steps (or processes) involved in moving from legal norms to final compliance, or the even institutionalization of legal norms, which is the focus of the conventional process approach, this dynamic approach seeks to understand how compliance changes in the business cycle from the start-up phase to daily operations. It does not evaluate compliance at one static point and analyze it statically but analyzes the development of compliance over time and attempts to understand it dynamically.

Furthermore, most existing compliance research focuses on one particular law, attempts to understand compliance by examining how regulated actors act regarding that law, and characterizes regulated actors based on their performance on that single law. However, the reality is that regulated actors have to deal with multiple laws in their daily lives. In this view, compliance involves how regulated actors respond to a
combination of different and often diverging legal rules that seek to shape their behaviors. Based on such understanding, this research attempted to offer an integrated view of compliance true to how it is experienced by the regulated actors.

With those research aims, compliance was studied in one type of business setting, restaurants. Thus, how restaurants responded to relevant legal rules and regulations (including food safety, occupational health, environmental protection, fire safety, business registration, and taxation) was studied. The research answers three main research questions:
1. How do selected restaurants respond to relevant regulatory rules, and what variation is there in their responses to different types of such rules and at different points in time in their business cycles?
2. What factors influence the variation in compliance behavior identified through question 1?
3. What new insights do the answers to questions 1 and 2 provide for general compliance research in China and abroad—practically, methodologically, and theoretically?

To answer these questions, compliance was viewed as an interaction between legal norms and organizational and individual behavior, and compliance was seen to exist when the behavior aligned with the law. The first question focuses on behavior and on describing the behavioral response to legal norms that occurred in restaurants. The second question focuses on explaining these behaviors in terms of why there is variation in responses to legal rules in these restaurants and what factors influence the emergence and evolution of compliance.

An in-depth qualitative methodology, which consists of a combination of participant observation, in-depth semi-structured interviews, and document collection, was employed. Participant observation was the most significant data collection method. The researcher was permitted to work as a server in two core restaurants, where she conducted participant observation for six weeks in each setting. She gained a vivid understanding of the real-life context of restaurants’ compliance behaviors and established relationships based on trust with the interviewees.

To describe compliance behaviors and capture their complexity as much as possible, the diverse cases sampling technique was used to select cases. This allowed maximum variances along relevant dimensions to emerge. Two dimensions, size and cost of consumption, were used to identify diverse cases in the pilot study, but after developing a deeper understanding of restaurants, more nuanced dimensions, such as the owners’ ideology of operating restaurants, attitudes toward regulators, and apparent compliance behaviors, were found to be more relevant dimensions for identifying diverse cases. In addition, the researcher considered the most diverse restaurants that would allow the deepest level of study and where she would gain a truly comprehensive understanding of all the research questions. Besides the two core restaurants, data was included from four other restaurants studied in less depth to add complementary information and dimensions.

The main body of thesis is presented in two parts. Part A, which aims to answer the first research question, deals with compliance behaviors. The approach of
descriptive analysis of compliance behaviors used later is described based on a review of the literature on existing compliance approaches in Chapter 2. Chapter 3 and 4 detail the two contrasting restaurant cases and illustrate how compliance was studied in this research through descriptions of compliance behaviors that occurred and changed from the start-up phase to daily operation.

Chapter 3 tells the story of a health-oriented and idealistic restaurant, Mingguan. This restaurant intended to provide healthy and environmentally friendly food, and the main owner was highly educated, idealistic, and morally concerned about food safety. Mingguan had a strong intention to comply with the law it encountered, but its compliance behaviors ultimately were complex. These behaviors included full, beyond, creative, partial, attempted, skeptical, formal, fraudulent, conflictive, and fake compliance, as well as noncompliance. Regardless of the complexity, compliance behaviors at Mingguan showed an overall commitment to the law.

Attempts to characterize Mingguan’s compliance behavior, existing classifications fell short. On the one hand, classifications related to how regulated actors comply, such as Braithwaite’s motivational postures and Kagan et al.’s management styles, showed the most positive classifications of commitment and capitulation, as well as true believer and committed complier. Yet these classifications do not fit the restaurant’s behavior, which was mixed and included negative compliance, which conflicted with what characterization in terms of the motivational postures and management styles predicted.

Chapter 4 deals with Naguan, which aimed to provide tasty and affordable food while maximizing profits. The owner’s knowledge was based on experience, and he was pragmatic and rarely concerned with morals. Naguan’s compliance generally focused only on profit maximization, which led to instances of symbolic, fake, fraudulent, and forced compliance, as well as noncompliance. However, it also engaged in compliance with some legal norms at certain points.

Naguan showed a complex combination of motivational postures, including game playing, capitulation, disengagement, and resistance. Different motivational postures were even expressed regarding the same regulatory requirements and the same types of compliance behaviors, for example those governed by the FDA. As to management style, Naguan was a combination of laggard and strategist, which have divergent ranks in terms of managerial commitment to regulatory requirements. A laggard complies only to avoid costly enforcement actions, while a strategist complies strategically and proactively. Theoretically, the strategist has greater commitment to and a more positive attitude toward legal requirements than the laggard does. Hence, a laggard combined with a strategist found in this research calls for further examination.

Chapter 5 offers a short conclusion for Part A, moving beyond the two core restaurants and drawing out some broader implications from the variations in compliance behavior found in restaurants and the proposed novel approach used. For this analysis, compliance information from three other restaurants was included. Implications identified in this chapter include compliance pluralism, compliance processes, characterizing the compliance subject, and several methodological implications.
Compliance pluralism captures the complexity and fluidity of compliance found in the restaurants studied. The concept refers to the many rules, concrete behaviors toward each legal norm, and time points during the processes of responding to legal norms that constitutes compliance. Compliance in one restaurant might have differed between different legal norms and concrete behaviors, and for even one legal norm, may have changed over time. Moreover, it was understood differently from the perspectives of different actors.

The compliance processes described in the two core restaurants clearly show two kinds of processes: clarifying processes (or learning processes) and contesting processes. The two processes share some similarities with other processes proposed by previous scholars using the processual approach, but some significant differences also were identified. During the clarification or learning process, the regulated actor attempts to clarify what compliance is expected and verify with the regulator what compliance entails. This process has not been the focus in preexisting compliance process studies. During the contesting process, the regulated actor contrasts its own values and interests with the legal norms. This is thus different from the negotiation process previously discussed by compliance process scholars, as the negotiation process focuses on the negotiations between regulated actors and regulators.

Furthermore, in this chapter, conclusions are drawn about the characterization of the regulated actors. The previous classifications of the regulated actors that this study has drawn on, motivational postures and management styles, assume that the regulated have the same attitudes and postures toward legal norms and regulatory authority, and partly classify the regulated actors based on that assumption. However, this research revealed that restaurants may have different attitudes and postures toward legal norms and regulatory authorities, and that this should be considered when classifying the regulated.

Part B answers the second research question, that is, what explains the compliance behaviors? The explanation falls into three levels: regulatory, organizational, and individual levels. Factors in each level are addressed in the subsequent chapters, with one chapter dedicated to each level.

Chapter 6 focuses on factors at the regulatory level and on how laws arrive at the restaurant through interaction between the regulator and so-called regulatory receptors, that is, the restaurant owner or top manager. More specifically, it focuses on restaurants’ comprehensive legal knowledge formation. Comprehensive legal knowledge consists of two kinds of knowledge: doctrinal legal knowledge and legal practice knowledge. The two kinds of knowledge may be different and become dissonant in terms of showing the regulated actors what “the law” is with which they need to comply. Doctrinal legal knowledge and legal practice knowledge influence each other and form the comprehensive legal knowledge from which the regulated actors identify what the law is.

There was limited doctrinal legal knowledge but abundant legal practice knowledge in restaurants. The comprehensive legal knowledge in restaurants had deviated from the original written law that attempted to regulate the restaurants. Consequently, their comprehensive legal knowledge pointed to a different direction of
compliance rather than the compliance direction to which the original written law points. Restaurants’ compliance behaviors are situated in their comprehensive legal knowledge. Variation in restaurants’ compliance behaviors reflected the variations of their comprehensive legal knowledge. When such comprehensive legal knowledge changed, compliance behavior changed as well.

Chapter 7 offers a discussion of the organizational influences on compliance behaviors and specifically focuses on how legal norms are activated by or how they compete with other norms in an organization. In this analysis, restaurants were treated as being composed of people at all levels, including employees and employers or owners, instead of as a single entity. To reach the very employees targeted by certain legal norms, the law must be transmitted within the restaurant internally, and it is mediated, either activated by or competing with, by organizational norms that guide employees’ behavior at the same time.

In this study, three forms of organizational norms—managerial, injunctive, and descriptive norms—were analyzed. Several organizational norms relevant to legal norms and compliance in each restaurant were identified, and the interaction between those organizational norms and legal norms, as well as how organizational norms influence compliance, was analyzed. Some organizational norms activate and promote certain legally required behaviors. Simultaneously, some organizational norms compete with legal norms in reducing the reasonability of legal norms, rationalizing the low possibility of meeting the legal requirements, reducing the responsibility of ensuring the goal of legal norms, impeding the enforcement of legal norms, and overemphasizing one side of behaviors the law requires but dismissing the other side of behaviors that violates the law.

Moreover, organizational and legal norms interact with each other, and they shape employees’ behaviors and influence compliance during the process of socialization, specifically during the management process. Thus, organizational socialization and management processes were discussed, and how they shape the formation of different organizational norms and mediate the function of legal norms and influence compliance was examined. Several key aspects are discussed here, including the owners’ preferences and personal beliefs or norms, organizational structure, the capacity for internal monitoring, the size of the organization, and the characteristics of employees and customers.

Chapter 8 focused on what shapes compliance behavior at the individual level by discussing the regulated actors’ subjective explanations for their compliance behaviors and by analyzing variables suggested in the existing literature as key individual compliance variables, including plural subjective deterrence, personal norms, descriptive norms, perceived obligation to obey the law, practical constraints, and recognition of legal requirements. To allow for analysis at this level, compliance behaviors in this chapter were coded into a dichotomy of compliance and violation in contrast to the complexity of classifying compliance in previous chapters.

Plural subjective deterrence was the most common reason mentioned in the subjective explanations for both compliance behaviors and violation behaviors. The second important reason raised by interviewees was personal norms. Operational
benefit and recognition of legal requirements were the next most common reasons mentioned to explain compliance behaviors, while practical constraints, descriptive norms, not being responsible for compliance, and recognition of legal requirements were the next most common reasons mentioned to explain violation behaviors. Not being responsible for compliance is a new factor raised in this research. It refers to the regulated actors not seeing themselves as responsible for compliance behavior.

Variable association analysis identified descriptive norms, personal norms, and plural subjective deterrence as the variables most significantly associated with compliance behaviors. Perceived obligation to obey the law was overwhelmingly negative and not obviously associated with compliance behaviors. Practical constraints were negatively associated with compliance behaviors, as predicted. Individuals’ recognition of the legal requirement in terms of whether they know it is law was overwhelmingly negative and did not show association with compliance behaviors.

Some general implications are discussed in the concluding chapter, Chapter 9, which answers the last research question. An integrated model to study compliance is proposed. First, in this model, knowing legal norms is not a necessary precondition for compliance. Second, legal knowledge is considered in a broader sense and called comprehensive legal knowledge, which is composed of doctrinal legal knowledge and legal practice knowledge and is the result of interaction between the two kinds of knowledge. Third, compliance behaviors, instead of legal norms, are taken as the starting point for compliance research. Researchers should note that compliance behaviors are responses to “the law” the regulated actors perceive subjectively, or their comprehensive legal knowledge, which may differ from doctrinal law or doctrinal legal knowledge. Consequently, understanding how this “perceived law” is formed and knowing what the “perceived law” is are crucial for understanding and predicting compliance behaviors. Fourth, if the regulated actors are organizations, one must understand how organizational norms transmit and compete with legal norms. Organizational members’ compliance behaviors are shaped by the combination of legal norms and organizational norms through organizational socialization and management processes. Fifth, the processes are interrelated at three levels. Processes at regulatory level and organizational level influence and are influenced by variables at individual level. All variables functioning in or produced by regulatory and organizational processes come together at individual level and produce the final compliance behaviors. For instance, the plural subjective deterrence and descriptive norms that function at individual level are directly linked to “what the law is” in the perception of the regulated actors, and they are the vital outcome of regulatory and organizational processes. Personal norms underlie the entire process of comprehensive legal knowledge formation at regulatory level and keep conflicting with final comprehensive legal knowledge if they deviate from what comprehensive legal knowledge considers proper.

In addition to the integrated model for studying compliance, implications are discussed for other aspects of compliance study, such as implications about compliance at different times in the business life cycle (start-up versus regular
operation), about compliance pluralism, for the process approach in compliance research, of comprehensive legal knowledge formation, and of differentiation between enforcement agency and legal norms. Furthermore, methodological implications are reviewed. Some new insights about how to address China’s compliance challenge are also addressed at the end of the thesis.
Samenvatting

Nalevingspluralisme en -processen:
Inzichten in nalevingsgedrag in restaurants in China

Yunmei Wu

Ondanks het feit dat China er dankzij grote inspanning in geslaagd is om in de laatste 30 jaar een geheel nieuw rechtssysteem op te bouwen, wordt China geconfronteerd met grote uitdagingen bij het waarborgen van rechtsnaleving van haar burgers en bedrijven. Empirisch werk van hoge kwaliteit is nodig om de nalevingsproblematiek in China te begrijpen en zo ideeën te ontwikkelen om deze uitdagingen het hoofd te bieden. Bestudering van naleving in Chinese context biedt bovendien een zeer goede mogelijkheid om een niet-Westerse casus toe te voegen aan de overheersend Westerse literatuur over naleving. In dit onderzoek wordt China's uitdaging op het gebied van naleving bestudeerd en tegelijkertijd van de mogelijkheid gebruik gemaakt om tot verdere theoretische ontwikkeling over naleving te komen. Het eerste doel van dit onderzoek is zodoende om een gedegen bestudering te bieden van naleving in China op basis van bestaande literatuur op het gebied van nalevingsonderzoek. Het tweede doel is om een bijdrage te leveren aan nalevingstheorie door een unieke empirische studie te bieden vanuit China's unieke context. Hierbij wordt gebruik gemaakt van een nieuwe etnografische methodologie die het mogelijk maakt een inzicht te krijgen in de dynamische nalevingsprocessen binnen kleine bedrijfsorganisaties waar veel verschillende juridische regels en veranderingen tijdens de bedrijfsvoeringscyclus zijn. Deze nieuwe benadering van onderzoek is ontwikkeld om de beperkingen van bestaande onderzoeksmethoden te overstijgen, in het bijzonder in de Chinese context. Desalniettemin heeft het ook meerdere bredere contextuele implicaties.

De gebruikte benadering zorgt voor een endogene begrip van wat naleving voor de betrokken actoren betekent, een exogene onderzoeking van de factoren die nalevingsgedrag beïnvloeden, alsook voor een procesmatig dynamisch begrip van hoe naleving tot stand komt, verandert en varieert, en uiteindelijk waarmee deze veranderingen en variaties kan verklaren. In plaats van te zoeken naar stappen (of processen) die van juridische normen leiden tot uiteindelijke naleving of zelfs institutionalisering van juridische normen, zoals gedaan wordt in de conventionele procesbenadering, wordt met deze dynamische benadering gepoogd te begrijpen hoe naleving verandert.
gedurende de bedrijfsvoeringscyclus, van het opstarten van een bedrijf tot en met de dagelijkse bedrijfsvoering. Naleving wordt niet op één enkel moment of statisch geanalyseerd, maar in plaats daarvan wordt de ontwikkeling van naleving geanalyseerd en gepoogd naleving in dynamische zin te begrijpen.

Bovendien wordt bij de meeste bestaande nalevingsonderzoeken wordt op één specifieke wet gefocust en wordt geprobeerd naleving te begrijpen door te kijken hoe een geregelde acteur zich gedraagt naar aanleiding van die specifieke wet. Gereguleerde actoren worden vervolgens gekarakteriseerd op basis van hun handelen met betrekking tot die enkele wet. Echter, in de realiteit van het dagelijks leven moeten gereguleerde actoren rekening houden met meerdere wetten. Vanuit dit perspectief gaat het erom hoe gereguleerde actoren reageren op een combinatie van verschillende en veelal uiteenlopende juridische regels die bedoeld zijn om hun gedrag te beïnvloeden. Op basis van dergelijk begrip wordt met dit onderzoek geprobeerd een holistisch perspectief op naleving te bieden dat nauwer aansluit bij de beleving van de gereguleerde actoren.

Bij dit onderzoek zijn de eerder genoemde onderzoeksdoelen in één soort bedrijfsmatige omgeving onderzocht: het restaurant. Er is bestudeerd hoe er bij restaurants gereageerd wordt op relevante juridische regels en regelgeving (inclusief voedselveiligheid, arbeidsomstandigheden, milieubescherming, brandveiligheid, bedrijfsregistratie en belasting). Op basis hiervan zijn hier de volgende drie hoofdonderzoeksvragen beantwoord:

1. Hoe reageren de geselecteerde restaurants op verschillende relevante regelgeving en wat voor variatie is er in hun reactie op verschillende regelgeving op verschillende momenten in hun bedrijfsvoeringscyclus?

2. Welke factoren beïnvloeden de variatie in nalevingsgedrag die gevonden is in vraag 1?

3. Welke nieuwe inzichten bieden die antwoorden op de voorgaande twee vragen voor algemeen nalevingsonderzoek in China en elders in de wereld, in praktisch, methodologisch en theoretisch opzicht?

Om deze vragen te beantwoorden, is in dit onderzoek naleving beschouwd als een interactie tussen juridische normen, organisatorisch en individueel gedrag. Er wordt gesproken van naleving als het gedrag overeenstemt met de wetgeving. De eerste vraag is gericht op gedrag en op de beschrijving van het gedrag in de restaurants in reactie op juridische normen. De tweede vraag is gericht op het verklaren van deze gedragingen: Waarom is er variatie in de reacties op juridische normen in deze restaurants en welke factoren beïnvloeden toestandkoming en verandering van naleving?

Voor dit onderzoek is gebruik gemaakt van een diepgaande kwalitatieve methodologie bestaande uit een combinatie van participant-observatie, diepgaande semigestructureerde interviews en documentatie verzameling. Participant-observatie was hierbij de belangrijkste methode van dataverzameling. De onderzoekster kreeg toestemming om als serverster in twee “kernrestaurants” te werken en verrichtte zo participant-observatie gedurende een periode van zes weken per restaurant. Op deze manier ontwikkelde ze een levendig begrip van de wezenlijke context van
nalevingsgedrag in deze restaurants en bouwde ze een vertrouwensrelatie op met de geïnterviewden.

Om nalevingsgedrag te beschrijven en de complexiteit ervan zoveel mogelijk weer te geven werd de steekproeftechniek van diverse casussen gebruikt om die gevallen te selecteren die de grootste verscheidenheid op de belangrijkste dimensies zouden weergeven. Bij de pilot studie werden twee dimensies – de mate en kosten van consumptie – gebruikt om zeer diverse casussen te identificeren. Echter, toen de onderzoeker eenmaal meer kennis over restaurants ontwikkeld had, bleken meer genuanceerde dimensies, zoals de heersende ideologie binnen de restaurants, de houding ten opzichte van de wetgever en duidelijk nalevingsgedrag, relevanter om de verscheidenheid weer te geven. Verder koos de onderzoeker voor de meest verscheiden restaurants waar de meest diepgaande studie uitgevoerd kon worden, zodat een allesomvattend antwoord op de onderzoeksvragen gevonden kon worden. Naast de twee kernrestaurants werden ook onderzoeksgegevens van vier andere restaurants ingewonnen, die minder diepgaand onderzocht werden, maar die desondanks aanvullende informatie en dimensies toevoegden aan dit onderzoek.

De kern van dit proefschrift wordt gepresenteerd in twee delen, m.u.v. de introductie en de conclusie, resp. hoofdstuk één en negen: Deel A gaat over nalevingsgedrag. Hierin wordt het antwoord op de eerste onderzoeksvraag behandeld.

In hoofdstuk twee wordt de beschrijvende analyse van nalevingsgedrag, zoals deze verderop gebruikt wordt, beschreven aan de hand van een literatuuroverzicht van bestaande benaderingen om naleving te bestuderen. Hoofdstuk drie en vier gaan in op de twee contrasterende restaurant casussen en illustreren hoe naleving in dit onderzoek bestudeerd werd door nalevingsgedrag en de veranderingen erin te beschrijven vanaf de opstartfase tot en met later, in de dagelijkse praktijk.

Hoofdstuk drie beschrijft restaurant Mingguan, een gezondheidsgericht, idealistisch ingestoken restaurant: In dit restaurant werd geprobeerd gezond en milieuvriendelijk voedsel aan te bieden. De baas was hoog opgeleid, idealistisch en moreel bezorgd over voedsel veiligheid. Bij Mingguan probeerde men om de weten waar ze mee in aanraking kwamen, na te leven, maar desondanks bleek het nalevingsgedrag er complex. Soms was er sprake van volledig nalevingsgedrag, soms ging men zelfs verder dan pure naleving, en soms was er sprake van creatieve naleving of van gedeeltelijke of gepoogde, sceptische, frauduleuze, conflicterende, nep- of van geen naleving. Ongeacht de complexiteit, was er qua nalevingsgedrag bij Mingguan gemiddeld sprake van een algemene inzet tot naleving.

Bij pogingen om het nalevingsgedrag bij Mingguan te classificeren, bleek geen van de bestaande classificaties toereikend. Aan de ene kant worden binnen classificaties zoals Valerie Braithwaite's motiveringshoudingen en Kagen et al.'s managementstijlen de meeste positieve classificaties van inzet en overgave getoond, de ware gelover en de gecommitteerde “nalever”. Toch sloten deze classificaties niet aan bij het waargenomen nalevingsgedrag bij dit restaurant, waarbij het veel meer om een mix bleek te gaan, inclusief negatieve naleving. En deze negatieve naleving was strijdig met de voorspellingen die volgden uit classificaties zoals de motiveringshoudingen en managementstijlen.
Hoofdstuk vier beschrijft restaurant Naguan, een restaurant dat erop gericht was smaakvol en betaalbaar te zijn, maar welke tegelijkertijd ook op winstoptymalisatie gericht was. De baas was ervaringsgeschoold, pragmatisch en bekoemerde zich zelden om moraliteit. Bij Naguan was naleving gemiddeld gericht op winstoptymalisatie en dat leidde in sommige gevallen tot symbolische, nep- en/of frauduleuze nalezing, in andere gevallen tot gedwongen naleving en soms tot niet-naleving. Toch werden sommige juridische regels op sommige momenten wel nageleefd.

Bij dit restaurant bleek sprake van een complexe combinatie van motiveringshoudingen, zoals het spelen van spelletjes, overgave, onverschilligheid en zelfs weerstand. De verschillende motiveringshoudingen deden zich zelfs ten opzichte van één enkele wettelijke vereiste en hetzelfde soort nalevingsgedrag voor, zoals bijvoorbeeld met betrekking tot de Voedsel- en Warenautoriteit. Qua managementstijl was er sprake van een combinatie van de stijlen van treuzelaar en strateeg, welke gedacht worden zich op verschillende niveaus te bevinden qua managementtoewijding aan regelgeving. Een treuzelaar leeft de regels alleen maar na om de kostbare consequenties van handhavingsacties te vermijden, terwijl een strateeg de regels strategisch en proactief naleeft. In theorie zou de strateeg meer toewijding moeten hebben en een positievere houding ten opzichte van de juridische eisen moeten hebben dan de treuzelaar. Daarom vraagt de combinatie tussen treuzelaar en strateeg, zoals bij dit onderzoek naar voren kwam, om verdere bestudering.

Hoofdstuk vijf is een korte conclusie van deel A, waarbij naast de bredere implicaties van de variaties in nalevingsgedrag zoals gevonden bij deze restaurants, ook de implicaties van de nieuwe, gebruikte onderzoeksbenadering geschetst worden. In deze analyse wordt naast de informatie van de twee kernrestaurants ook informatie geïncludeerd over naleving bij drie andere restaurants. De in dit hoofdstuk geschetste implicaties betreffen die van pluralisme in naleving, nalevingsprocessen, karakterisering van het nalevingsonderwerp en verschillende onderzoeksimplicaties.


De nalevingsprocessen zoals beschreven naar aanleiding van de bestudering van de twee kernrestaurants, tonen duidelijk twee soorten processen: verhelderende processen (oftewel leerprocessen) en tegenstrijdigheidprocessen. Deze twee processen tonen enkele gelijkenissen met de andere processen zoals beschreven door eerdere schrijvers die de processuele benadering gebruikten. Er zijn echter ook grote verschillen. Gedurende het verhelderings- of leerproces probeert de gereguleerde
helder te krijgen wat voor naleving er wordt verwacht en probeert hij/zij met de regelgever te verifiëren wat de naleving exact inhoudt. Dit proces is niet aandachtig bestudeerd in voorgaande studies naar het nalevingsproces. Gedurende het tegenstrijdigheidsproces contrasteert de gereguleerde acteur de eigen waarden en belangen met de juridische normen. Dit is dus iets anders dan het onderhandelingsproces wat voorheen besproken is door andere auteurs die de nalevingsprocesbenadering beschreven, omdat die benadering focust op de onderhandeling tussen de gereguleerde acteur en de handhavende partij.

Verder worden in dit hoofdstuk conclusies getrokken over de karakterisering van de gereguleerde actoren. Bij de eerdere classificaties van gereguleerde actoren waar deze studie op voortbouwt, zoals de motiveringshoudingen en managementstijlen, wordt aangenomen dat de gereguleerde actoren dezelfde houding hebben ten aanzien van verschillende juridische normen en gezaghebbende instanties en zo worden zij deels op basis hiervan geclassificeerd. Uit dit onderzoek blijkt echter dat er binnen een restaurants verschillende houdingen kunnen bestaan ten aanzien van verschillende juridische normen en handhavingsinstanties en dat die verschillen meegewogen dienen te worden bij de classificatie van gereguleerde actoren.

In Deel B wordt antwoord gegeven op de tweede onderzoeksvraag naar hoe de nalevingsgedragingen verklaard kunnen worden. De verklaring wordt opgesplitst in drie niveaus: regelgevings-, organisationeel en individueel niveau. Per hoofdstuk wordt één niveau beschreven en in elk hoofdstuk worden factoren op elk niveau beschreven.

In hoofdstuk zes worden factoren op regelgevingsniveau besproken en wordt bekeken hoe een wet ontvangen wordt in een restaurant na een interactie tussen de regelgever en de zogenaamde “regelgevingsontvangers”, in dit geval de restaurant eigenaar of de hoogste manager. Om precies te zijn, wordt de nadruk gelegd op de manier waarop binnen een restaurant uitgebreide juridische kennisvorming plaatsvindt. Uitgebreide juridische kennis bestaat uit twee soorten kennis: kennis van de juridische leer en juridisch praktische kennis. Deze twee soorten kennis kunnen verschillen en kunnen tegenstrijdig worden wanneer het gaat om duidelijkheid voor de gereguleerde acteur over wat “de wet” is. Kennis van de juridische leer en praktisch juridische kennis beïnvloedden elkaar en vormen zo samen de uitgebreide juridische kennis op basis waarvan gereguleerde actoren “de wet kennen”.

Bij de restaurants bleek er sprake van zeer beperkte kennis van de juridische leer en overvloedige praktisch juridische kennis. De uitgebreide juridische kennis bleek af te wijken van de oorspronkelijke geschreven wet waarmee de restaurants gereguleerd dienden te worden. Als gevolg daarvan leidde de uitgebreide juridische kennis tot een andere richting van naleving dan de richting waar de oorspronkelijke geschreven wet op aanstuurde. De nalevingsgedragingen binnen restaurants volgden de daar aanwezige uitgebreide juridische kennis. Variaties in nalevingsgedragingen bij de restaurants weerspiegelden de variaties van hun uitgebreide juridische kennis. Wanneer de uitgebreide juridische kennis veranderde, veranderde ook het nalevingsgedrag.
In hoofdstuk zeven worden de organisationele invloeden op nalevingsgedrag besproken en wordt specifiek de nadruk gelegd op de manier waarop juridische normen worden versterkt of verzwakt door andere normen binnen de organisatie. In de analyse werden de restaurants niet als een enkele eenheid gezien, maar juist als bestaand uit mensen op verschillende niveaus, inclusief de werknemers en de werkgever of eigenaar. Om precies de werknemers te bereiken waar sommige juridische normen op gericht zijn, moet de wet binnen het restaurant gecommuniceerd worden. Die communicatie wordt tegelijkertijd beïnvloed (hetzij met een versterkende, hetzij met een verzwakkende werking) door de organisationele normen die het werknemersgedrag sturen.

Drie vormen van organisationele normen werden geanalyseerd: managementnormen, injunctieve normen en descriptieve normen. Verschillende organisationele normen werden geïdentificeerd die relevant waren voor juridische normen en naleving bij elk restaurant. Verder werd de interactie tussen die organisationele normen en juridische normen geanalyseerd, alsook de manier waarop organisationele normen nalevingsgedrag beïnvloeden. Sommige organisationele normen activeren en bevorderen bepaald wettelijk vereist gedrag. Tegelijkertijd zijn sommige organisationele normen tegenstrijdig met juridische normen doordat ze bijvoorbeeld de redelijkheid van juridische normen verminderen of de lage kans dat wettelijke vereisten bereikt worden rationaliseren, of doordat ze het gevoel van verantwoordelijkheid verminderen om het doel van juridische norm te bereiken, of doordat ze de handhaving van juridische normen tegenwerken, of een door de wet vereiste gedraging overmatig benadrukken terwijl andere gedragingen die dezelfde wet breken genegeerd worden.

Organisationele en juridische normen interacteren en ze vormen het gedrag van werknemers en beïnvloeden naleving tijdens het proces van socialisatie en specifiek tijdens het managementproces. Kortom, organisationele socialisatie en managementprocessen worden besproken en er wordt gekeken hoe deze twee de vorming van verschillende organisationele normen beïnvloeden. Bovendien wordt gekeken hoe organisationele socialisatie en managementprocessen het functioneren van juridische normen en uiteindelijk naleving beïnvloeden. Verschillende belangrijke aspecten worden besproken, waaronder de voorkeuren van de eigenaren, hun persoonlijke overtuigingen en normen, de organisatiestructuur, de capaciteit tot controle van interne naleving, de grootte van de organisatie, en de eigenschappen van werknemers en klanten.

In hoofdstuk acht wordt aandacht geschonken aan wat nalevingsgedrag op individueel niveau vormt. Dit wordt gedaan aan de hand van subjectieve verklaringen van de geregelde actoren voor hun nalevingsgedrag. Ook wordt dit gedaan aan de hand van de volgende belangrijke individuele nalevingsvariabelen uit de bestaande literatuur, waaronder meervoudige subjectieve afschrikking, persoonlijke normen, descriptieve normen, de ervaren verplichting om de wet na te leven, praktische beperkingen en herkenning van juridische eisen. In tegenstelling tot de complexe classificatie van naleving zoals besproken in de voorgaande hoofdstukken, is om
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analyze te op dit niveau mogelijk te maken, hier gekozen voor een dichotome codering van nalevingsgedragingen in naleving en schending.

Meervoudige subjectieve afschrikking bleek de meest genoemde reden in de subjectieve verklaring voor zowel nalevings- en schendingsgedragingen. Persoonlijke normen bleek de tweede belangrijke reden genoemd door de ondervraagden. Operationeel voordeel en herkenning van juridische eisen waren de daaropvolgende meest gangbare redenen als verklaring voor nalevingsgedrag, terwijl praktische beperkingen, descriptieve normen, gebrek aan aansprakelijkheid en herkenning van juridische eisen vervolgens de meest gangbare redenen waren voor regelschending. “Gebrek aan aansprakelijkheid” was een nieuwe factor die naar voren kwam in dit onderzoek en deze houdt in dat actoren zichzelf niet verantwoordelijk achten voor nalevingsgedrag.

Een variable association analysis liet zien dat descriptieve normen, persoonlijke normen en meervoudige subjectieve afschrikking het sterkst geassocieerd waren met nalevingsgedrag. De ervaren verplichting om de wet te volgen bleek overweldigend negatief en bleek verder niet vanzelfsprekend geassocieerd met nalevingsgedrag. Praktische beperkingen waren zoals voorspeld negatief geassocieerd met nalevingsgedrag. De herkenning van juridische eisen van individuen (qua of men wist dat iets de wet was) was overweldigend negatief en toonde geen associatie met nalevingsgedragingen.

Bijvoorbeeld de meervoudige subjectieve afschrikking en descriptieve normen die op het individuele niveau spelen, zijn direct verbonden met “wat de wet is” in de beleving van de gereguleerde actoren en zijn cruciaal voor het resultaat van de regelgevings- en organisatieprocessen. Persoonlijke normen onderstrepen het totale proces van uitgebreide kennisvorming op het regelgevingsniveau en deze blijven conflicteren met de uiteindelijke uitgebreide juridische kennis als ze afwijken van wat op basis van eerdere uitgebreide juridische kennis betamelijk gezien wordt.

Naast het geïntegreerde model om naleving te bestuderen, worden ook de implicaties besproken voor andere aspecten van de bestudering van naleving, zoals implicaties voor naleving tijdens de verschillende momenten in de bedrijfsvoeringcyclus (opstartfase versus reguliere bedrijfsvoering), voor nalevenspluralisme, voor de procesbenadering in het nalevingsonderzoek, voor uitgebreide juridische kennisvorming, en voor differentiatie tussen de werkzaamheid van handhaving en juridische normen. Verder worden methodologische implicaties besproken. Tot slot worden ook enkele nieuwe inzichten besproken met betrekking tot hoe China’s uitdaging op het gebied van naleving aangepakt kan worden.